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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/660,240	09/12/2000	Tsuneo Sato	0879-0274P	6176

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EXAMINER

WORKU, NEGUSIE

ART UNIT

PAPER NUMBER

2626

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/660,240	SATO, TSUNEO	

Examiner	Art Unit	
Negussie Worku	2626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 15 July 2004.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 3-33 is/are allowed.
- 6) Claim(s) 1 and 2 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.

- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

1. Applicant's arguments filed July 15, 2004 have been fully considered but they are not persuasive. A detail response to applicant's arguments is submitted in page 4 of this office action.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Yamada et al. (USP 6,067,171).

With respect to claim 1, Yamada et al. discloses an image transmitter (a portable facsimile unit 10 of fig 1), which transmits image data, see (col.4, lines 1-3) the image transmitter (facsimile unit 10), comprising: an image selecting device (*selection [judgment] is made by a document sensor for detecting the presence of document page which is provided in the reading section 21 of fig 1, see col.4, lines 32-33*) selects at least one image to be transmitted, see (col.4, lines 42-45); a data amount determining

device (CPU 11 of fig1) which determines an amount of data in the selected image, see (col.4, lines line 1-4); a battery residual quantity determining device (voltage detecting section 24 of fig 1, see col.4, lines 35-40) which determines a residual quantity of a battery powering the image transmitter (a transmitter facsimile 10 of fig 1); a transmutability determination device, (CPU 11 of fig 1), see (col.4, lines 50-54) determines that it is possible to transmit all of the image data, see (col.4, lines 43-48) and which prohibits the image data from being transmitted if the transmutability determination device determines that it is impossible to transmit all of the image data, see (col.4, lines 44-49).

With respect to claim 2, Yamada discloses the image transmitter (as shown in fig 1), further comprising a display device (as shown in fig 6), which displays a message indicating that it is impossible to transmit all of the image data if the control device prohibits the image data from being transmitted (*FIG. 6 is a view showing an example of a display section for displaying the time for residual communication in the portable wireless telephone unit and the display of the transmission disablement in step S10 includes a display "since the residual amount of power in the battery is small, no transmission is made, see col.6, lines 28-32*).

Reasons for Allowable Subject matter

4. The following is a statement of reasons for the indication of allowable subject matter: Claims 3 and 4 are indicated as having allowable subject matter in the last office action. Applicant has amended claim 3 into an independent form and included the subject matter of claim 1, as indicated in applicant's response of page 21 of second paragraph. Therefore, claims 3-4 are allowed for the reasons that the prior art does not teach or disclose the invention as claimed.

With respect to claims 5 and 6 as applicant arguments are indicated in page 23 of 2nd paragraph or lines 7-15 for claim 5, and as discussed in page 24 of lines 13-27 as for claim 6. Therefore, claims 5 and 6 are allowed for the reasons that the prior art does not discuss or suggest the invention as claimed.

With respect to claims 7-19, claims are allowed for the reasons that the prior art does not teach or suggest where the image data for each image comprises a plurality data components and determine whether or not at least some data of the selected images may be transmitted based on the residual quantity of the battery, as indicated in page 26, lines 4-10 of applicant's response.

With respect to claims 21-33, as indicated by applicant in his response of page 26, lines 10-13 claims recites similar features of claim 7. Therefore, it has been shown that the prior art does not teach or suggest the invention as claimed.

Therefore, claims 3-33 are allowed for the reasons stated above.

Response to the Arguments

5. With respect to claim 1, applicant's remarks dated July 15, 2004 have been reviewed. As stated in page 22 of 2nd paragraph or lines 6-9, applicant argues that "an image selecting device which selects at least one image to be transmitted" is not taught or disclosed by the prior art. Examiner respectfully disagrees with applicant's opinion. This imitation is met because although Yamada may have only one image to select from, this still reads on the claim language of selecting at least one image. As stated by the prior art (Yamada et al.) in col.4, lines 42-45, a judgment is made whether or not all the image data stored in the RAM 15 can be transmitted in relation to the residual amount of battery, a selection made, if all image can be transmitted as it is selected from memory 15 of fig 1. Therefore, examiner still believes that the prior art teach or suggest the claimed limitation. A rejection to claims 1-2, are maintained and the office action is final.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communication from Examiner should be directed to *Negussie Worku* whose telephone number is (703) 305 5441.

The Examiner can normally be reached on M-F, 9 am - 6 pm if attempts to reach the Examiner by telephone are unsuccessful, the Examiner's Supervisor, ***Kimberly Williams***, can be reached on (703) 305-4863.

The fax phone number for the organization where this application or proceeding is assigned is (703) 306-5406, and any inquiry of general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

Kimberly Williams
KIMBERLY WILLIAMS
SUPERVISORY PATENT EXAMINER

Negussie Worku
11/26/04